

Article - Natural Resources

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§8–1808.4.

(a) (1) In this section the following words have the meanings indicated.

(2) (i) “Nonwater–dependent project” means a temporary or permanent structure that, by reason of its intrinsic nature, use, or operation, does not require location in, on, or over State or private wetlands.

(ii) “Nonwater–dependent project” includes:

1. A dwelling unit on a pier;

2. A restaurant, a shop, an office, or any other commercial building or use on a pier;

3. A temporary or permanent roof or covering on a pier;

4. A pier used to support a nonwater–dependent use;

and

5. A small–scale renewable energy system on a pier,

including:

A. A solar energy system and its photovoltaic cells, solar panels, or other necessary equipment;

B. A geothermal energy system and its geothermal heat exchanger or other necessary equipment; and

C. A wind energy system and its wind turbine, tower, base, or other necessary equipment.

(iii) “Nonwater–dependent project” does not include:

1. A fuel pump or other fuel–dispensing equipment on a pier;

2. A sanitary sewage pump or other wastewater removal equipment on a pier; or

3. An office on a pier for managing marina operations, including monitoring vessel traffic, registering vessels, providing docking services, and housing electrical or emergency equipment related to marina operations.

(3) (i) “Pier” means any pier, wharf, dock, walkway, bulkhead, breakwater, piles, or other similar structure.

(ii) “Pier” does not include any structure on pilings or stilts that was originally constructed beyond the landward boundaries of State or private wetlands.

(b) This section does not apply to a nonwater-dependent project located on State or private wetlands within the Critical Area in Prince George’s County.

(c) (1) Except as provided in paragraphs (2) and (3) of this subsection and notwithstanding any other provision of law, a local jurisdiction may not issue a building permit or any other approval under this subtitle to authorize a nonwater-dependent project located on State or private wetlands within the Critical Area.

(2) A local jurisdiction may issue a building permit or any other approval under this subtitle to authorize a nonwater-dependent project located on State or private wetlands within the Critical Area if the project:

(i) 1. Involves a commercial activity that is permitted as a secondary or accessory use to a permitted primary commercial use;

2. Is not located on a pier that is attached to residentially, institutionally, or industrially used property;

3. Is located in:

A. An intensely developed area and the project is authorized under a program amendment to a local jurisdiction’s critical area program approved on or after July 1, 2013, if the approved program amendment includes necessary changes to the local jurisdiction’s zoning, subdivision, and other ordinances so as to be consistent with or more restrictive than the requirements provided under this paragraph; or

B. An area that has been excluded from a local critical area program if the exclusion has been adopted or approved by the Critical Area Commission;

4. Is approved by the local planning and zoning authorities after the local jurisdiction's program amendment under item 3A of this item, if applicable, has been approved;

5. Allows or enhances public access to State wetlands, if applicable;

6. Does not expand beyond the length, width, or channelward encroachment of the pier on which the project is constructed;

7. Has a height of up to 18 feet unless the project is located at a marina; and

8. Is up to 1,000 square feet in total area; or

(ii) 1. Is located on a pier that was in existence on or before December 31, 2012;

2. Satisfies all of the requirements under item (i)1 through 7 of this paragraph; and

3. If applicable, has a temporary or permanent roof or covering that is up to 1,000 square feet in total area.

(3) (i) A local jurisdiction may issue a building permit or other approval under this subtitle to authorize a nonwater-dependent project for a small-scale renewable energy system on a pier located on State or private wetlands within the Critical Area if the project:

1. Involves the installation or placement of a small-scale renewable energy system that is permitted as a secondary or accessory use on a pier that is authorized under Title 16 of the Environment Article;

2. Is located in:

A. The Critical Area and the project is authorized under a program amendment to a local jurisdiction's critical area program approved on or after July 1, 2013, if the approved program amendment includes necessary changes to the local jurisdiction's zoning, subdivision, and other ordinances so as to be consistent with or more restrictive than the requirements provided under this paragraph; or

B. An area that has been excluded from a local critical area program if the exclusion has been adopted or approved by the Critical Area Commission; and

3. Is approved by the local planning and zoning authorities after the local jurisdiction's program amendment under item 2A of this subparagraph, if applicable, has been approved.

(ii) A building permit or other approval issued under subparagraph (i) of this paragraph may include the installation or placement of:

1. A solar energy system attached to a pier if the device or equipment associated with that system does not extend more than:

A. 4 feet above or 18 inches below the deck of the pier;
or

B. 1 foot beyond the length or width of the pier;

2. A solar energy system attached to a piling if there is only one solar panel per boat slip;

3. A solar energy system attached to a boathouse roof if the device or equipment associated with that system does not extend beyond the length, width, or height of the boathouse roof;

4. A closed-loop geothermal heat exchanger under a pier if the geothermal heat exchanger or any associated devices or equipment do not:

A. Extend beyond the length, width, or channelward encroachment of the pier;

B. Deleteriously alter long shore drift; or

C. Cause significant individual or cumulative thermal impacts to aquatic resources; or

5. A wind energy system attached to a pier if there is only one wind energy system per pier for which:

A. The height from the deck of the pier to the blade extended at its highest point is up to 12 feet;

and B. The rotor diameter of the wind turbine is up to 4 feet;

C. The setbacks of the wind energy system from the nearest property line and from the channelward edge of the pier to which that system is attached are at least 1.5 times the total height of the system from its base to the blade extended at its highest point.

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